



Tip of the Month for July 2022

The Ethical Obligations of Attorneys vs. Social Workers

Source: VLN's Volunteer Handbook

There is a critical distinction between the ethical obligations of attorneys and social workers. Attorneys are ethically obligated to serve a client's *stated wishes* while social workers are ethically obligated to serve a client's *best interests*. These are quite different standards.

For example, a client meets with a volunteer attorney at a brief legal services clinic. During this brief consultation, the attorney notes that the client appears to have mental health issues. The client can live on his own, but it also appears that adult children may be taking advantage of the client or, at a minimum, that the client is in a neglectful home environment and is not receiving social services due to an unwillingness to seek help. The client does not see any of these issues and is not interested in being referred to a social service provider. Should the attorney contact the county in the interests of the client's welfare? Herein lies the distinction between attorneys and social workers: the client is not interested in intervention, and the attorney must accede to the client's wishes absent the belief that disclosure of the client's perceived disability is necessary to prevent a reasonably certain death or substantial bodily harm. MRPC 1.6(b)(6). And even then, in Minnesota, disclosure is simply permitted, but not required. A social worker, by contrast, would likely be obligated to intervene.

This last limitation highlights both the pros and cons of attorney-social worker collaboration when working with a client at a legal services clinic. On the one hand, the social worker may be able to take action that would serve the best interests of the client and, ultimately, provide more and/or better life services. On the other hand, the attorney cannot divulge or allow such information to be divulged without the client's consent.

To the extent practicable, the limitations noted above should be discussed between attorney and social worker prior to meeting with the client, or at least prior to the client discussing his or her legal issues with the social worker present. Taking precautions designed to meet the requirements of the attorney/client relationship as well as meet the needs of the client relative to services provided by both an attorney and social worker can result in a win-win situation for all parties involved, and particularly the client. Social workers can provide invaluable services to the volunteer attorney's clients and, as feasible and appropriate, should be included to most successfully resolve a client's legal and related issues.

Consent for Release of Information from Attorney to Social Services Advocate

I give permission to (name of attorney(s)) _____ to share pertinent information about the legal problems we discussed, as necessary to assess or provide services to me, with (person or agency) _____.

The attorney has explained to me that (please check boxes below):

- ☐ Social workers and many other professionals are mandated reporters of child and vulnerable adult abuse (unlike attorneys)
- ☐ Certain social services professionals are required to report certain facts to their agency (such as if a client has broken a rule prohibiting drug or alcohol use when participating in a program).
- ☐ The attorney cannot prevent re-disclosure of information released per this consent.
- ☐ I may cancel this consent in writing at any time prior to the information being released and, in any event, this consent form expires automatically one year after signing.

Signature of client: _____ Date: _____

Printed name of client: _____

Consent for Release of Information from Social Services Advocate to Attorney

I give permission to (name of advocate) _____ to share pertinent information about me and the services I am receiving from them and their agency, as necessary to assess or provide services to me, with (person or agency): _____. I understand that (please check boxes below):

- ☐ My records are protected under state and federal privacy regulations and cannot be disclosed without my written consent unless otherwise provided by law.
- ☐ I may cancel this consent in writing at any time prior to the information being released and, in any event, this consent form expires automatically one year after signing.
- ☐ Any information released to the above social services advocate and agency will be shared only with staff and/or others who need this information to assess and/or provide services to me.

Signature of client: _____ Date: _____

Printed name of client: _____